

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JAVIER L. OLIVA, #1409172 §
VS. § CIVIL ACTION NO. 6:12cv361
WARDEN J. RUPERT, ET AL. §

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge John D. Love. The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Plaintiff has filed objections.

Having made a *de novo* review of the objections raised by Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Plaintiff's objections are without merit. Specifically, Plaintiff admits that the instant lawsuit is a duplicate of the lawsuit he filed in *Oliva v. Rupert, et al.*, No. 6:12cv349. However, he appears to argue in his objections the validity of his lawsuit and asks that the Court grant relief. Such relief must occur, if at all, in the prior-filed lawsuit, above. The instant lawsuit must be dismissed. Plaintiff's objections are without merit. It is therefore

ORDERED that the complaint is **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. § 1915A(b)(1). All motions by either party not previously ruled on are hereby **DENIED**. The Clerk shall forward a copy of this Order to the Three Strikes Coordinator for the Eastern District of Texas.

It is SO ORDERED.

SIGNED this 27th day of August, 2012.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE